

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Goodson offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (1) of section 34.01, Florida
 7 Statutes, is amended to read:

8 34.01 Jurisdiction of county court.—

9 (1) County courts shall have original jurisdiction:

10 (a) In all misdemeanor cases not cognizable by the circuit
 11 courts.~~†~~

12 (b) Of all violations of municipal and county ordinances.~~†~~

13 (c) Of all actions at law in which the matter in
 14 controversy does not exceed the sum of \$15,000, exclusive of
 15 interest, costs, and attorney's fees, except those within the
 16 exclusive jurisdiction of the circuit courts.~~†~~ and

17 (d) Of disputes occurring in the homeowners' associations
 18 as described in s. 720.311(2)(a), which shall be concurrent with
 19 jurisdiction of the circuit courts.

Amendment No. 1

20 (e) Of actions for the collection of compensation under s.
21 448.115, notwithstanding the amount in controversy prescribed in
22 paragraph (c).

23 Section 2. Section 448.115, Florida Statutes, is created
24 to read:

25 448.115 Civil action for wage theft; notice; civil
26 penalty; preemption.—

27 (1) (a) As used in this section, the term "wage theft"
28 means an illegal or improper underpayment or nonpayment of an
29 individual employee's wage, salary, commission, or other similar
30 form of compensation within a reasonable time from the date on
31 which the employee performed the work to be compensated.

32 (b) A wage theft occurs when an employer fails to pay a
33 portion of wages, salary, commissions, or other similar form of
34 compensation due to an employee within a reasonable time from
35 the date on which the employee performed the work, according to
36 the already applicable rate and the pay schedule of the employer
37 established by policy or practice. In the absence of an
38 established pay schedule, a reasonable time from the date on
39 which the employee performed the work is 2 weeks.

40 (2) (a) If an employer commits wage theft as defined in
41 paragraph (1) (a), an aggrieved employee may initiate a civil
42 action as provided in this section.

43 (b) County courts shall have original and exclusive
44 jurisdiction in all actions involving wage theft, as provided in
45 s. 34.01(1) (e).

46 (c) The action shall:

Amendment No. 1

47 1. Be brought in the county court in the county where the
48 employee performed the work; and

49 2. Be governed by the Florida Small Claims Rules.

50 (3) (a) Before bringing an action, the claimant must notify
51 the employer who is alleged to have engaged in wage theft of an
52 intent to initiate a civil action in writing.

53 (b) The notice must identify the amount that the claimant
54 alleges is owed, the actual or estimated work dates and hours
55 for which compensation is sought, and the total amount of
56 compensation unpaid through the date of the notice.

57 (c) The employer has 15 days after the date of service of
58 the notice to pay the total amount of unpaid compensation or
59 otherwise resolve the action to the satisfaction of the
60 claimant.

61 (4) The action must be filed within 1 year after the last
62 date that the alleged unpaid work was performed by the employee.

63 (5) The claimant must prove wage theft by a preponderance
64 of the evidence. A prevailing claimant is entitled to damages
65 limited to the actual compensation due and owing. The court may
66 only award economic damages expressly authorized in this
67 subsection, and may not award noneconomic or punitive damages.

68 (6) (a) A county, municipality, or political subdivision
69 may establish an administrative, nonjudicial process under which
70 an assertion of unpaid compensation may be submitted by, or on
71 behalf of, an employee in order to assist in the collection of
72 compensation owed to the employee. Any such process, at a
73 minimum, shall afford the parties involved an opportunity to
74 negotiate a resolution regarding the compensation in question.

Amendment No. 1

75 The county, municipality, or political subdivision may, as part
76 of the process, assist the employee in completing an application
77 for a determination of civil indigent status under s. 57.082 and
78 may pay the filing fee under s. 34.041 on behalf of the
79 employee. The process may not adjudicate a compensation dispute
80 between an employee and an employer nor award damages to the
81 employee.

82 (b) A county, municipality, or political subdivision may
83 not adopt or maintain in effect any law, ordinance, or rule that
84 creates requirements or regulations for the purpose of
85 addressing unpaid compensation claims other than to establish
86 the administrative, nonjudicial process provided for in this
87 subsection.

88 (c) Notwithstanding paragraph (b), a local ordinance
89 governing wage theft enacted before January 1, 2011, is not
90 preempted by this section. However, any local ordinance
91 governing wage theft enacted before January 1, 2011, may not
92 apply to an employer whose annual gross volume of sales or
93 business transacted is more than \$500,000, exclusive of sales
94 tax collected or excise taxes paid.

95 (d) Any other regulation, ordinance, or provision for the
96 recovery of unpaid compensation by a county, municipality, or
97 political subdivision is expressly prohibited and is preempted
98 to the state.

99 Section 3. This act shall take effect upon becoming a law.
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Amendment No. 1

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:
An act relating to employers and employees; amending
s. 34.01, F.S.; providing jurisdiction of county
courts over wage theft civil actions; creating s.
448.115, F.S.; providing a definition for the term
"wage theft"; creating a civil cause of action for
wage theft; providing a procedure for filing of a
civil action for wage theft; providing jurisdiction;
requiring a claimant to notify the employer of the
employee's intention to initiate a civil action;
allotting the employer a specific time to resolve the
action; providing a statute of limitations; requiring
a claimant to prove wage theft by a preponderance of
the evidence; prohibiting certain damages; authorizing
a county, municipality, or political subdivision to
establish a process by which a claim may be filed;
prohibiting a local government from adopting or
maintaining in effect a law, ordinance, or rule for
the purpose of addressing unpaid wage claims;
prohibiting the preemption of certain local ordinances
governing wage theft; providing that any regulation,
ordinance, or other provision for recovery of unpaid
wages by counties, municipalities, or political
subdivisions is prohibited and preempted to the state;
providing an effective date.